

63-9H-7. Regulation of retail rates of incumbent rural telecommunications carrier.

A. Rates for retail rural public telecommunications services provided by an incumbent rural telecommunications carrier shall be subject to regulation by the commission only in the manner and to the extent authorized by this section.

B. An incumbent rural telecommunications carrier shall file tariffs for all retail public telecommunications services which, other than residential local exchange services, ~~which~~ shall be effective after ten days' notice to its customers and the commission. ~~-and publication in a local newspaper in the incumbent service area.~~ An incumbent rural telecommunications carrier shall remain subject to complaint by an interested party subject to Section 63-9H-10 NMSA 1978.

C. An incumbent rural telecommunications carrier may increase its rates for residential local exchange service in the manner provided in Subsection B of this section to comply with requirements imposed by any federal or state law or rule. The procedures of Subsections D and E of this section shall not apply to increases under this subsection.

CD. ~~Except as provided in Subsection C of this section, R~~ates for residential local exchange service may be increased by an incumbent rural telecommunications carrier only after sixty days' notice to all affected subscribers. The notice of increase shall include:

- (1) the reasons for the rate increase;
- (2) a description of the affected service;
- (3) an explanation of the right of the subscriber to petition the commission for a public hearing on the rate increase;
- (4) a list of local exchange areas that are affected by the proposed rate increase; and
- (5) the dates, times and places for the public informational meetings required by this section.

~~D.—An incumbent rural telecommunications carrier may increase its rates for residential local exchange service in the manner otherwise provided in this section as necessary to recover a reasonable allocation of costs incurred due to requirements imposed by any federal or state law or rule.~~

An incumbent rural telecommunications carrier that proposes to increase its rates for residential local exchange service shall hold at least one public informational meeting in each public regulation commissioner's district as established by the Public Regulation Commission Apportionment Act [8-7-1] NMSA 1978] in which there is a local exchange area affected by the rate change.

E. Residential local exchange service rates increased by an incumbent rural telecommunications carrier pursuant to Subsection D of this section shall be reviewed by the commission only upon written protest signed by two and one-half percent of all affected subscribers. ~~-or upon the commission staff's own motion for motion for good cause.~~ The protest shall specifically set forth the particular rate or charge as to which review is requested, the reasons for the requested review and the relief that the persons protesting desire. If a proper protest is presented to the commission within sixty days from the date notice of the rate change was sent to affected subscribers of an incumbent rural telecommunications carrier, the commission may accept and file the complaint and, upon proper notice, may suspend the rates at issue during the pendency of the proceedings and reinstate the rates previously in effect and shall hold and complete a hearing thereon within ninety days after filing to determine if the rates as proposed are fair, just and reasonable. The commission may, within sixty days after close of the hearing, enter an order adjusting the rates at issue, except that the commission shall not set any rate below the intrastate cost of providing the service, which shall include the cost methodology

and rate of return authorized by the federal communications commission. In the order, the commission may order a refund of amounts collected in excess of the rates and charges as approved at the hearing, which may be paid as a credit against billings for future services. If the complaint is denied, the commission shall enter an order denying the complaint within sixty days after the close of the hearing, and the rates shall be deemed approved. For purposes of this section, cost shall also include a reasonable amount of joint and common costs incurred by the telecommunications carrier in its operations and may include other accounting adjustments authorized by the commission.

F. An incumbent rural telecommunications carrier ~~that serves less than five percent of the state's aggregate statewide subscriber lines~~ may at any time elect to file an application with the commission requesting the commission to prescribe fair, just and reasonable rates for the carrier in a manner consistent with the policy calling for relaxed regulation of incumbent rural telecommunications carriers expressed in Section 63-9H-2 and Section 63- 9H-4(C) NMSA 1978. ~~based on the carrier's revenue, expenses and investment in accordance with traditional rate-making principles.~~ The commission shall decide cases filed under this subsection with reasonable promptness but no later than nine months following the filing of an application, unless the commission finds that a longer time will be required, in which case the commission may extend the period for an additional three months.

G. Rates for local exchange, vertical and long distance service to retail end-user customers may be reduced to a level equal to, but not below, the intrastate cost, which shall include the cost methodology and rate of return authorized by the federal communications commission. If an incumbent rural telecommunications carrier loses its exemption pursuant to Section 251 of the federal act, the rate for a service, excluding basic service, must cover the cost of the service, including the imputed rate of wholesale service elements as may be required by the commission. The cost of long distance service must also include any interexchange access rates charged to another telecommunications carrier for the service.

H. An incumbent rural telecommunications carrier operating pursuant to this section shall have the ability to offer or discontinue offering special incentives, discounts, packaged offerings, temporary rate waivers or other promotions, or to offer individual contracts.
